

Board of Education Agenda Item

Item: _____ A. _____

Date: _____ June 28, 2007 _____

Topic: Final Review of an Appeals Process for Supplemental Educational Services Providers Under the *No Child Left Behind Act of 2001*

Presenter: Ms. Diane Jay, Associate Director, Office of Program Administration and Accountability

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Origin:

_____ Topic presented for information only (no board action required)

X Board review required by

X State or federal law or regulation

_____ Board of Education regulation

_____ Other: _____

X Action requested at this meeting _____ Action requested at future meeting: _____

Previous Review/Action:

_____ No previous board review/action

X Previous review/action

date May 30, 2007

action First Review

Background Information: Section 1116(e)(4)(B-C) of the *No Child Left Behind Act of 2001* requires states to: 1) develop and apply objective criteria to potential supplemental educational services (SES) providers that are based on a demonstrated record of effectiveness in increasing the academic proficiency of students in subjects relevant to meeting the state academic content and student achievement standards; and 2) maintain an updated list of approved providers across the state, by school division, from which parents may select.

Potential SES providers submit applications to the Department of Education for review of their programs. The applications are evaluated by Department staff using Board-approved criteria in ten key areas. The key areas include: 1) evidence of effectiveness; 2) evidence of link between research and program design; 3) connection to state academic standards and division's instructional program; 4) monitoring student progress; 5) communication with schools and school divisions; 6) communication with parents and families; 7) qualifications of instructional staff; 8) financial and organizational capacity; 9) compliance with federal, state, and local health and safety standards; and 10) compliance with federal, state, and local civil rights protections. After a review by the Department of Education, the Board of Education approves providers that meet the criteria to be added to the list of providers eligible to serve Virginia students.

At its meeting on May 30, 2007, the Board delegated to the Superintendent of Public Instruction

authority to act on its behalf regarding the approval of SES applications and any initial appeals from the providers.

Summary of Major Elements: This item proposes a process for potential supplemental educational services (SES) providers to appeal to the Board of Education if their application has been denied by the Superintendent of Public Instruction, acting with authority delegated by the Board of Education. The proposed process outlines the steps the applicants should take if they do not agree with the decision of the Superintendent of Public Instruction to disapprove the application. The process describes: 1) the time frame for the individual submitting the appeal; 2) the procedure for considering the appeal; and 3) the time frame for consideration of the appeal.

Superintendent's Recommendation: The Superintendent of Public Instruction recommends that the Board of Education approve the proposed appeals process for supplemental educational services providers under the *No Child Left Behind Act of 2001*.

Impact on Resources: The responsibility can be absorbed by the agency's existing resources at this time.

Timetable for Further Review/Action: Following final approval, the appeal process will be posted to the section of the Department of Education's Web site related to SES providers.

**Appeals Process for Supplemental Educational Services Providers Under
the *No Child Left Behind Act of 2001***

Submission of Application	Potential Supplemental Educational Services (SES) provider submits application to Virginia Department of Education (VDOE) on a schedule determined by the Department.
Review of Application	<p>VDOE Review The Supplemental Educational Services provider application is reviewed by a VDOE team within 15 business days of submission deadline. The VDOE review team forwards the application with recommendations to the Superintendent of Public Instruction.</p> <p>Superintendent of Public Instruction Review The Superintendent of Public Instruction reviews the recommendation from the VDOE review team within 15 business days of receiving the application from the review team. The Superintendent, acting on behalf of the Virginia Board of Education (BOE) through the Delegation of Authority, will:</p> <ul style="list-style-type: none"> • approve the SES application; or • deny the SES application. <p>SES Application Resubmission If a SES application has been denied by the Superintendent of Public Instruction, the applicant may submit a revised application in accordance with submission deadlines.</p>
Appeals Process	<p>Denied Applicant Appeals to the Superintendent of Public Instruction If a SES application has been denied approval by the Superintendent of Public Instruction, the applicant may appeal, in writing to the Superintendent of Public Instruction within 15 business days of the date the denial letter is mailed. The Superintendent of Public Instruction will convene a review team consisting of one representative for the VDOE, one representative for the SES applicant, and one independent third party. The review team will review the appeal within 60 business days of the date the appeal is received. The decision of the review team will be sent by letter to the individual submitting the appeal within 15 calendar days of the review team’s decision.</p> <p>Denied Applicant Appeals to the BOE If a SES appeal has been denied approval by the Superintendent of Public Instruction, the applicant may appeal, in writing, to the BOE within 15 business days of the date the denial letter is received. The BOE will review the appeal within 60 business days of the date an appeal is received. The final decision of the BOE will be sent by letter to the individual submitting the appeal within 15 calendar days of the BOE’s decision.</p> <p>Denied Applicant Appeals Through Virginia Administrative Process Act This decision of the BOE is intended to be a final “case decision” within the meaning of the Virginia Administrative Process Act (APA) §§2.2-4000 et seq. of the <i>Code of Virginia</i>, and subject to further review in accordance with the APA and Part 2A of the Rules of the Supreme Court of Virginia.</p>

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